

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Stephen Goorvitch

1 Reuben Yeroushalmi (SBN 193981)

2 reuben@yeroshalmi.com

3 **YEROUSHALMI & YEROUSHALMI\***

9100 Wilshire Boulevard, Suite 240W

Beverly Hills, California 90212

Telephone: (310) 623-1926

Facsimile: (310) 623-1930

Attorneys for Plaintiff,

CONSUMER ADVOCACY GROUP, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

CONSUMER ADVOCACY GROUP, INC.,  
in the public interest,

Plaintiff,

v.

TAWA SUPERMARKET, INC., a California  
Corporation;  
WALONG MARKETING, INC., a  
California Corporation;  
and DOES 1-40,

Defendants.

CASE NO. **21STCV16789**

COMPLAINT FOR PENALTY AND  
INJUNCTION

Violation of Proposition 65, the Safe  
Drinking Water and Toxic Enforcement  
Act of 1986 (*Health & Safety Code*, §  
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL  
CASE (exceeds \$25,000)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges four causes of action  
against defendants TAWA SUPERMARKET, INC., WALONG MARKETING, INC., and  
DOES 1-40 as follows:

**THE PARTIES**

1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an organization qualified to do business in the State of California. CAG is a person within the meaning of Health and Safety Code Section 25249.11, subdivision (a). CAG, acting as a private attorney general, brings this action in the public interest as defined under Health and Safety Code Section 25249.7, subdivision (d).
2. Defendant TAWA SUPERMARKET, INC. (“TAWA SUPERMARKET”) is a California Corporation qualified to do business in California and doing business in the State of California at all relevant times herein.
3. Defendant WALONG MARKETING, INC. (“WALONG MARKETING”) is a California Corporation qualified to do business and doing business in the State of California at all relevant times herein.
4. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-40, and therefore sues these defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed, believes, and thereon alleges that each fictitiously named defendant is responsible in some manner for the occurrences herein alleged and the damages caused thereby.
5. At all times mentioned herein, the term “Defendants” includes TAWA SUPERMAKET, WALONG MARKETING, and DOES 1-40.
6. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all times mentioned herein have conducted business within the State of California.
7. Upon information and belief, at all times relevant to this action, each of the Defendants, including DOES 1-40, was an agent, servant, or employee of each of the other Defendants. In conducting the activities alleged in this Complaint, each of the Defendants was acting within the course and scope of this agency, service, or employment, and was acting with the consent, permission, and authorization of each of

1 the other Defendants. All actions of each of the Defendants alleged in this Complaint  
2 were ratified and approved by every other Defendant or their officers or managing  
3 agents. Alternatively, each of the Defendants aided, conspired with and/or facilitated the  
4 alleged wrongful conduct of each of the other Defendants.

- 5 8. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the  
6 Defendants was a person doing business within the meaning of Health and Safety Code  
7 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more  
8 employees at all relevant times.

9 **JURISDICTION**

- 10 9. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article  
11 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except  
12 those given by statute to other trial courts. This Court has jurisdiction over this action  
13 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of  
14 violations of Proposition 65 in any Court of competent jurisdiction.
- 15 10. This Court has jurisdiction over Defendants named herein because Defendants either  
16 reside or are located in this State or are foreign corporations authorized to do business in  
17 California, are registered with the California Secretary of State, or who do sufficient  
18 business in California, have sufficient minimum contacts with California, or otherwise  
19 intentionally avail themselves of the markets within California through their  
20 manufacture, distribution, promotion, marketing, or sale of their products within  
21 California to render the exercise of jurisdiction by the California courts permissible  
22 under traditional notions of fair play and substantial justice.
- 23 11. Venue is proper in the County of Los Angeles because one or more of the instances of  
24 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or  
25 because Defendants conducted, and continue to conduct, business in the County of Los  
26 Angeles with respect to the consumer product that is the subject of this action.

1  
2  
3 **BACKGROUND AND PRELIMINARY FACTS**

4 12. In 1986, California voters approved an initiative to address growing concerns about  
5 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to  
6 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,  
7 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking  
8 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections  
9 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources  
10 from contamination, to allow consumers to make informed choices about the products  
11 they buy, and to enable persons to protect themselves from toxic chemicals as they see  
12 fit.

13 13. Proposition 65 requires the Governor of California to publish a list of chemicals known  
14 to the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety*  
15 *Code* § 25249.8. The list, which the Governor updates at least once a year, contains over  
16 700 chemicals and chemical families. Proposition 65 imposes warning requirements and  
17 other controls that apply to Proposition 65-listed chemicals.

18 14. All businesses with ten (10) or more employees that operate or sell products in California  
19 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited  
20 from knowingly discharging Proposition 65-listed chemicals into sources of drinking  
21 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and  
22 reasonable” warnings before exposing a person, knowingly and intentionally, to a  
23 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

24 15. Proposition 65 provides that any person "violating or threatening to violate" the statute  
25 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* §  
26 25249.7. "Threaten to violate" means "to create a condition in which there is a  
27 substantial probability that a violation will occur." *Health & Safety Code* § 25249.11(e).

1 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,  
2 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

3 16. Plaintiff identified certain practices of manufacturers and distributors of Crispy Seaweed,  
4 Roasted Eel Fillet, Pollock Crisp Chips, Dried Seaweed I, and Dried Seaweed II of  
5 exposing, knowingly and intentionally, persons in California to Lead and Lead  
6 Compounds, Cadmium and Cadmium Compounds, and Inorganic Arsenic Compounds  
7 of such products without first providing clear and reasonable warnings of such to the  
8 exposed persons prior to the time of exposure. Plaintiff later discerned that Defendants  
9 engaged in such practice.

10 17. On October 1, 1992 the Governor of California added Lead and Lead Compounds  
11 (“Lead”) to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit.  
12 27, § 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10,  
13 twenty (20) months after addition of Lead to the list of chemicals known to the State to  
14 cause cancer, Lead became fully subject to Proposition 65 warning requirements and  
15 discharge prohibitions.

16 18. On February 27, 1987, the Governor of California added Lead to the list of chemicals  
17 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
18 tit. 27, § 27001(c)). Lead is known to the State to cause developmental, female, and  
19 male reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
20 25249.10, twenty (20) months after addition of Lead to the list of chemicals known to  
21 the State to cause developmental and reproductive toxicity, Lead became fully subject to  
22 Proposition 65 warning requirements and discharge prohibitions.

23 19. On October 1, 1987 the Governor of California added Cadmium and Cadmium  
24 Compounds (“Cadmium”) to the list of chemicals known to the State to cause cancer  
25 (*Cal. Code Regs.* tit. 27, § 27001(b)). Pursuant to Health and Safety Code Sections  
26 25249.9 and 25249.10, twenty (20) months after addition of Cadmium to the list of  
27

28

1 chemicals known to the State to cause cancer, Cadmium became fully subject to  
2 Proposition 65 warning requirements and discharge prohibitions.

3 20. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals  
4 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.*  
5 tit. 27, § 27001(c)). Cadmium is known to the State to cause developmental, and male  
6 reproductive toxicity. Pursuant to Health and Safety Code Sections 25249.9 and  
7 25249.10, twenty (20) months after addition of Cadmium to the list of chemicals known  
8 to the State to cause developmental and reproductive toxicity, Cadmium became fully  
9 subject to Proposition 65 warning requirements and discharge prohibitions.

10 21. On February 27, 1987 the Governor of California added Inorganic Arsenic Compounds  
11 to the list of chemicals known to the State to cause cancer (*Cal. Code Regs.* tit. 27, §  
12 27001(b)). Pursuant to Health and Safety Code Sections 25249.9 and 25249.10, twenty  
13 (20) months after addition of Inorganic Arsenic Compounds to the list of chemicals  
14 known to the State to cause cancer, Inorganic Arsenic Compounds became fully subject  
15 to Proposition 65 warning requirements and discharge prohibitions.

16  
17 **SATISFACTION OF PRIOR NOTICE**

18 22. Plaintiff served the following notices for alleged violations of Health and Safety Code  
19 Section 25249.6, concerning consumer products exposures:

- 20 a. On or about December 24, 2020, Plaintiff gave notice of alleged violations of  
21 Health and Safety Code Section 25249.6, concerning consumer products  
22 exposures subject to a private action to TAWA SUPERMARKET and to the  
23 California Attorney General, County District Attorneys, and City Attorneys for  
24 each city containing a population of at least 750,000 people in whose  
25 jurisdictions the violations allegedly occurred, concerning the Crispy Seaweed.  
26 b. On or about December 17, 2020, Plaintiff gave notice of alleged violations of  
27 Health and Safety Code Section 25249.6, concerning consumer products

1 exposures subject to a private action to TAWA SUPERMARKET and to the  
2 California Attorney General, County District Attorneys, and City Attorneys for  
3 each city containing a population of at least 750,000 people in whose  
4 jurisdictions the violations allegedly occurred, concerning the Roasted Eel Fillet.

5 c. On or about August 11, 2020, Plaintiff gave notice of alleged violations of  
6 Health and Safety Code Section 25249.6, concerning consumer products  
7 exposures subject to a private action to TAWA SUPERMARKET and to the  
8 California Attorney General, County District Attorneys, and City Attorneys for  
9 each city containing a population of at least 750,000 people in whose  
10 jurisdictions the violations allegedly occurred, concerning the Pollock Crisp  
11 Chips.

12 d. On or about August 11, 2020, Plaintiff gave notice of alleged violations of  
13 Health and Safety Code Section 25249.6, concerning consumer products  
14 exposures subject to a private action to TAWA SUPERMARKET, WALONG  
15 MARKETING and to the California Attorney General, County District  
16 Attorneys, and City Attorneys for each city containing a population of at least  
17 750,000 people in whose jurisdictions the violations allegedly occurred,  
18 concerning the Dried Seaweed I.

19 e. On or about July 7, 2020, Plaintiff gave notice of alleged violations of Health  
20 and Safety Code Section 25249.6, concerning consumer products exposures  
21 subject to a private action to TAWA SUPERMARKET, WALONG  
22 MARKETING and to the California Attorney General, County District  
23 Attorneys, and City Attorneys for each city containing a population of at least  
24 750,000 people in whose jurisdictions the violations allegedly occurred,  
25 concerning the Dried Seaweed II.

26 23. Before sending the notice of alleged violations, Plaintiff investigated the consumer  
27 products involved, the likelihood that such products would cause users to suffer  
28

1 significant exposures to Lead and Lead Compounds, Cadmium and Cadmium  
2 Compounds, and Inorganic Arsenic Compounds, and the corporate structure of each of  
3 the Defendants.

4 24. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the  
5 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for  
6 Plaintiff who executed the certificate had consulted with at least one person with relevant  
7 and appropriate expertise who reviewed data regarding the exposures to Lead and Lead  
8 Compounds, Cadmium and Cadmium Compounds, and Inorganic Arsenic Compounds,  
9 the subject Proposition 65-listed chemical of this action. Based on that information, the  
10 attorney for Plaintiff who executed the Certificate of Merit believed there was a  
11 reasonable and meritorious case for this private action. The attorney for Plaintiff  
12 attached to the Certificate of Merit served on the Attorney General the confidential  
13 factual information sufficient to establish the basis of the Certificate of Merit.

14 25. Plaintiff's notice of alleged violations also included a Certificate of Service and a  
15 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986  
16 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

17 26. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff  
18 gave notice of the alleged violations to TAWA SUPERMARKET, WALONG  
19 MARKETING, and the public prosecutors referenced in Paragraph 22.

20 27. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor  
21 any applicable district attorney or city attorney has commenced and is diligently  
22 prosecuting an action against the Defendants.

### **FIRST CAUSE OF ACTION**

24 **(By CONSUMER ADVOCACY GROUP, INC. and against TAWA**  
25 **SUPERMARKET, and DOES 1-10 for Violations of Proposition 65, The Safe**  
26 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§**  
**25249.5, et seq.))**

### **Seaweed I**



1 28. Plaintiff repeats and incorporates by reference paragraphs 1 through 27 of this complaint  
2 as though fully set forth herein.

3 29. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
4 distributor, promoter, or retailer of Crispy Seaweed (“Crispy Seaweed”), including but  
5 not limited to “Kakakao Friends”; “Kwang Cheon Kim”; “Crispy Seaweed”; “4g Net  
6 Wt. 0.14 oz”; “UPC Individual bag: 8 809395 752219”; “UPC Bundle: 8 809395 752226  
7 4g x 16 Net Wt: 16 pkgs x 0.14 oz (4g)”; “Product of Korea.”

8 30. Crispy Seaweed contains Lead and lead compounds.

9 31. Defendants knew or should have known that Lead and lead compounds has been  
10 identified by the State of California as a chemical known to cause cancer and  
11 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
12 Defendants were also informed of the presence of Lead and lead compounds in Crispy  
13 Seaweed within Plaintiff’s notice of alleged violations further discussed above at  
14 Paragraph 22a.

15 32. Plaintiff’s allegations regarding Crispy Seaweed concerns “[c]onsumer products  
16 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
17 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
18 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
19 *25602(b)*. Crispy Seaweed is a consumer product, and, as mentioned herein, exposures  
20 to Lead and lead compounds took place as a result of such normal and foreseeable  
21 consumption and use.

22 33. Plaintiff is informed, believes, and thereon alleges that between December 24, 2017 and  
23 the present, each of the Defendants knowingly and intentionally exposed California  
24 consumers and users of Crispy Seaweed, which Defendants manufactured, distributed, or  
25 sold as mentioned above, to Lead and lead compounds, without first providing any type  
26 of clear and reasonable warning of such to the exposed persons before the time of  
27 exposure. Defendants have distributed and sold Crispy Seaweed in California.

28

1 Defendants know and intend that California consumers will use and consume Crispy  
2 Seaweed, thereby exposing them to Lead and lead compounds. Further, Plaintiff is  
3 informed, believes, and thereon alleges that Defendants are selling Product under a brand  
4 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;  
5 have knowingly introduced relevant chemical into product or knowingly caused relevant  
6 chemical to be created in Product; have covered, obscured or altered a warning label that  
7 has been affixed to Product by the manufacturer, producer, packager, importer, supplier  
8 or distributor of Product; have received a notice and warning materials for exposure from  
9 Product without conspicuously posting or displaying the warning materials; and/or have  
10 actual knowledge of potential exposure to relevant chemical from Product. Defendants  
11 thereby violated Proposition 65.

12 34. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
13 Persons sustain exposures by handling Crispy Seaweed without wearing gloves or any  
14 other personal protective equipment, or by touching bare skin or mucous membranes  
15 with gloves after handling Crispy Seaweed, as well as through direct and indirect hand to  
16 mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
17 from Crispy Seaweed.

18 35. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
19 Proposition 65 as to Crispy Seaweed have been ongoing and continuous, as Defendants  
20 engaged and continue to engage in conduct which violates Health and Safety Code  
21 Section 25249.6, including the manufacture, distribution, promotion, and sale of Crispy  
22 Seaweed, so that a separate and distinct violation of Proposition 65 occurred each and  
23 every time a person was exposed to lead and lead compounds by Crispy Seaweed as  
24 mentioned herein.

25 36. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
26 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
27 violations alleged herein will continue to occur into the future.

28

1 37. Based on the allegations herein, Defendants are liable for civil penalties of up to  
2 \$2,500.00 per day per individual exposure to lead and lead compounds from Crispy  
3 Seaweed, pursuant to Health and Safety Code Section 25249.7(b).

4 38. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
5 filing this Complaint.

6  
7  
8 **SECOND CAUSE OF ACTION**

9 **(By CONSUMER ADVOCACY GROUP, INC. and against TAWA**  
10 **SUPERMARKET, and DOES 11-20 for Violations of Proposition 65, The Safe**  
11 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***  
12 **25249.5, *et seq.*))**

13 **Dried Seafood**

14 39. Plaintiff repeats and incorporates by reference paragraphs 1 through 38 of this complaint  
15 as though fully set forth herein.

16 40. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
17 distributor, promoter, or retailer of Roasted Eel Fillet, including but not limited to “Eel  
18 Fresh Flavor”; “Roasted Eel Fillet (Fresh Flavor)” “40g”; “Bing Yang. From The  
19 Ocean”; “UPC 6 970175 900730”; “Product of China”

20 41. Roasted Eel Fillet contains Lead and lead compounds.

21 42. Defendants knew or should have known that Lead and lead compounds has been  
22 identified by the State of California as a chemical known to cause cancer and  
23 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
24 Defendants were also informed of the presence of Lead and lead compounds in Roasted  
25 Eel Fillet within Plaintiff’s notice of alleged violations further discussed above at  
26 Paragraph 22b.

27 43. Plaintiff’s allegations regarding Roasted Eel Fillet concerns “[c]onsumer products  
28 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,  
storage, consumption, or other reasonably foreseeable use of a consumer good, or any

1 exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, §*  
2 25602(b). Roasted Eel Fillet is a consumer product, and, as mentioned herein, exposures  
3 to Lead and lead compounds took place as a result of such normal and foreseeable  
4 consumption and use.

5 44. Plaintiff is informed, believes, and thereon alleges that between December 17, 2017 and  
6 the present, each of the Defendants knowingly and intentionally exposed California  
7 consumers and users of Roasted Eel Fillet, which Defendants manufactured, distributed,  
8 or sold as mentioned above, to Lead and lead compounds, without first providing any  
9 type of clear and reasonable warning of such to the exposed persons before the time of  
10 exposure. Defendants have distributed and sold Roasted Eel Fillet in California.  
11 Defendants know and intend that California consumers will use and consume Roasted  
12 Eel Fillet, thereby exposing them to Lead and lead compounds. Further, Plaintiff is  
13 informed, believes, and thereon alleges that Defendants are selling Product under a brand  
14 or trademark that is owned or licensed by the Defendants or an entity affiliated thereto;  
15 have knowingly introduced relevant chemical into product or knowingly caused relevant  
16 chemical to be created in Product; have covered, obscured or altered a warning label that  
17 has been affixed to Product by the manufacturer, producer, packager, importer, supplier  
18 or distributor of Product; have received a notice and warning materials for exposure from  
19 Product without conspicuously posting or displaying the warning materials; and/or have  
20 actual knowledge of potential exposure to relevant chemical from Product. Defendants  
21 thereby violated Proposition 65.

22 45. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
23 Persons sustain exposures by handling Roasted Eel Fillet without wearing gloves or any  
24 other personal protective equipment, or by touching bare skin or mucous membranes  
25 with gloves after handling Roasted Eel Fillet, as well as through direct and indirect hand  
26 to mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
27 from Roasted Eel Fillet.

1 46. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
2 Proposition 65 as to Roasted Eel Fillet have been ongoing and continuous, as Defendants  
3 engaged and continue to engage in conduct which violates Health and Safety Code  
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Roasted  
5 Eel Fillet, so that a separate and distinct violation of Proposition 65 occurred each and  
6 every time a person was exposed to lead and lead compounds by Roasted Eel Fillet as  
7 mentioned herein.

8 47. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
10 violations alleged herein will continue to occur into the future.

11 48. Based on the allegations herein, Defendants are liable for civil penalties of up to  
12 \$2,500.00 per day per individual exposure to lead and lead compounds from Roasted Eel  
13 Fillet, pursuant to Health and Safety Code Section 25249.7(b).

14 49. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
15 filing this Complaint.

### 16 **THIRD CAUSE OF ACTION**

17  
18 **(By CONSUMER ADVOCACY GROUP, INC. and against TAWA**  
19 **SUPERMARKET, and DOES 21-30 for Violations of Proposition 65, The Safe**  
20 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code, §§***  
21 ***25249.5, et seq.*))**

### 22 **Chips**

23 50. Plaintiff repeats and incorporates by reference paragraphs 1 through 49 of this complaint  
24 as though fully set forth herein.

25 51. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,  
26 distributor, promoter, or retailer of Pollock Crisp Chips ("Pollock Crisp Chips"),  
27 including but not limited to "Pollock Crisp"; "Net Wt. 1.41 oz (40 GM)"; "Jane-Jane";  
28 "UPC 4 710030 212422"; "Approved No. 7F3 0062"; "Origin of Taiwan."

1 52. Pollock Crisp Chips contains Lead and lead compounds.

2 53. Defendants knew or should have known that Lead and lead compounds has been  
3 identified by the State of California as a chemical known to cause cancer and  
4 reproductive toxicity and therefore was subject to Proposition 65 warning requirements.  
5 Defendants were also informed of the presence of Lead and lead compounds in Pollock  
6 Crisp Chips within Plaintiff's notice of alleged violations further discussed above at  
7 Paragraph 22c.

8 54. Plaintiff's allegations regarding Pollock Crisp Chips concerns "[c]onsumer products  
9 exposure[s]," which "is an exposure that results from a person's acquisition, purchase,  
10 storage, consumption, or other reasonably foreseeable use of a consumer good, or any  
11 exposure that results from receiving a consumer service." *Cal. Code Regs. tit. 27, §*  
12 *25602(b)*. Pollock Crisp Chips are a consumer product, and, as mentioned herein,  
13 exposures to Lead and lead compounds took place as a result of such normal and  
14 foreseeable consumption and use.

15 55. Plaintiff is informed, believes, and thereon alleges that between August 18, 2017 and the  
16 present, each of the Defendants knowingly and intentionally exposed California  
17 consumers and users of Pollock Crisp Chips, which Defendants manufactured,  
18 distributed, or sold as mentioned above, to Lead and lead compounds, without first  
19 providing any type of clear and reasonable warning of such to the exposed persons  
20 before the time of exposure. Defendants have distributed and sold Pollock Crisp Chips  
21 in California. Defendants know and intend that California consumers will use and  
22 consume Pollock Crisp Chips, thereby exposing them to Lead and lead compounds.  
23 Further, Plaintiff is informed, believes, and thereon alleges that Defendants are selling  
24 Product under a brand or trademark that is owned or licensed by the Defendants or an  
25 entity affiliated thereto; have knowingly introduced relevant chemical into product or  
26 knowingly caused relevant chemical to be created in Product; have covered, obscured or  
27 altered a warning label that has been affixed to Product by the manufacturer, producer,  
28

1 packager, importer, supplier or distributor of Product; have received a notice and  
2 warning materials for exposure from Product without conspicuously posting or  
3 displaying the warning materials; and/or have actual knowledge of potential exposure to  
4 relevant chemical from Product. Defendants thereby violated Proposition 65.

5 56. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
6 Persons sustain exposures by handling Pollock Crisp Chips without wearing gloves or  
7 any other personal protective equipment, or by touching bare skin or mucous membranes  
8 with gloves after handling Pollock Crisp Chips, as well as through direct and indirect  
9 hand to mouth contact, hand to mucous membrane, or breathing in particulate matter  
10 dispersed from Pollock Crisp Chips.

11 57. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
12 Proposition 65 as to Pollock Crisp Chips have been ongoing and continuous, as  
13 Defendants engaged and continue to engage in conduct which violates Health and Safety  
14 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of  
15 Pollock Crisp Chips, so that a separate and distinct violation of Proposition 65 occurred  
16 each and every time a person was exposed to lead and lead compounds by Pollock Crisp  
17 Chips as mentioned herein.

18 58. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
20 violations alleged herein will continue to occur into the future.

21 59. Based on the allegations herein, Defendants are liable for civil penalties of up to  
22 \$2,500.00 per day per individual exposure to lead and lead compounds from Roasted Eel  
23 Fillet, pursuant to Health and Safety Code Section 25249.7(b).

24 60. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
25 filing this Complaint.

26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**FOURTH CAUSE OF ACTION**

**(By CONSUMER ADVOCACY GROUP, INC. and against TAWA SUPERMARKET, WALONG MARKETING, and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

**Seaweed II**

61. Plaintiff repeats and incorporates by reference paragraphs 1 through 60 of this complaint as though fully set forth herein.
62. Each of the Defendants is, and at all times mentioned herein was, a manufacturer, distributor, promoter, or retailer of Dried Seaweed (“Dried Seaweed”), including but not limited to “Asian Taste”; “Dried Seaweed”; “Ingredient: Laver”; “Net Wt: 50g (1.76 oz); “Pack for Shanghai Wachine Trading Co., Ltd.” “UPC 6 73367 35022 6”; “Product of China.”
63. Dried Seaweed contains Lead and lead compounds, cadmium and cadmium compounds, and inorganic arsenic compounds.
64. Defendants knew or should have known that Lead and lead compounds, cadmium and cadmium compounds, and inorganic arsenic compounds have been identified by the State of California as chemicals known to cause cancer and reproductive toxicity and therefore were subject to Proposition 65 warning requirements. Defendants were also informed of the presence of Lead and lead compounds, cadmium and cadmium compounds, and inorganic arsenic compounds in Dried Seaweed within Plaintiff's notice of alleged violations further discussed above at Paragraph 22d and 22e.
65. Plaintiff’s allegations regarding Dried Seaweed concerns “[c]onsumer products exposure[s],” which “is an exposure that results from a person’s acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a consumer good, or any exposure that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*. Dried Seaweed is a consumer product, and, as mentioned herein, exposures to



1           Lead and lead compounds, cadmium and cadmium compounds, and inorganic arsenic  
2           compounds took place as a result of such normal and foreseeable consumption and use.

3       66. Plaintiff is informed, believes, and thereon alleges that between July 7, 2017 and the  
4           present, each of the Defendants knowingly and intentionally exposed California  
5           consumers and users of Dried Seaweed, which Defendants manufactured, distributed, or  
6           sold as mentioned above, to Lead and lead compounds, cadmium and cadmium  
7           compounds, and inorganic arsenic compounds, without first providing any type of clear  
8           and reasonable warning of such to the exposed persons before the time of exposure.  
9           Defendants have distributed and sold Dried Seaweed in California. Defendants know  
10          and intend that California consumers will use and consume Dried Seaweed, thereby  
11          exposing them to Lead and lead compounds, cadmium and cadmium compounds, and  
12          inorganic arsenic compounds. Further, Plaintiff is informed, believes, and thereon alleges  
13          that Defendants are selling Product under a brand or trademark that is owned or licensed  
14          by the Defendants or an entity affiliated thereto; have knowingly introduced relevant  
15          chemical into product or knowingly caused relevant chemical to be created in Product;  
16          have covered, obscured or altered a warning label that has been affixed to Product by the  
17          manufacturer, producer, packager, importer, supplier or distributor of Product; have  
18          received a notice and warning materials for exposure from Product without  
19          conspicuously posting or displaying the warning materials; and/or have actual  
20          knowledge of potential exposure to relevant chemical from Product. Defendants thereby  
21          violated Proposition 65.

22       67. The principal routes of exposure are through dermal contact, ingestion and inhalation.  
23          Persons sustain exposures by handling Dried Seaweed without wearing gloves or any  
24          other personal protective equipment, or by touching bare skin or mucous membranes  
25          with gloves after handling Dried Seaweed, as well as through direct and indirect hand to  
26          mouth contact, hand to mucous membrane, or breathing in particulate matter dispersed  
27          from Dried Seaweed.

- 1 68. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of  
2 Proposition 65 as to Dried Seaweed have been ongoing and continuous, as Defendants  
3 engaged and continue to engage in conduct which violates Health and Safety Code  
4 Section 25249.6, including the manufacture, distribution, promotion, and sale of Dried  
5 Seaweed, so that a separate and distinct violation of Proposition 65 occurred each and  
6 every time a person was exposed Lead and lead compounds, cadmium and cadmium  
7 compounds, and inorganic arsenic compounds by Dried Seaweed as mentioned herein.
- 8 69. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65  
9 mentioned herein is ever continuing. Plaintiff further alleges and believes that the  
10 violations alleged herein will continue to occur into the future.
- 11 70. Based on the allegations herein, Defendants are liable for civil penalties of up to  
12 \$2,500.00 per day per individual exposure to Lead and lead compounds, cadmium and  
13 cadmium compounds, and inorganic arsenic compounds from Dried Seaweed, pursuant  
14 to Health and Safety Code Section 25249.7(b).
- 15 71. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to  
16 filing this Complaint.

17 **PRAYER FOR RELIEF**

18 Plaintiff demands against each of the Defendants as follows:

- 19 72. A permanent injunction mandating Proposition 65-compliant warnings;  
20 73. Penalties pursuant to Health and Safety Code Section 25249.7, subdivision (b);  
21 74. Costs of suit;  
22 75. Reasonable attorney fees and costs; and  
23 76. Any further relief that the court may deem just and equitable.
- 24  
25  
26  
27  
28

1 Dated: May 4, 2021

YEROUSHALMI & YEROUSHALMI\*

2  
3 

4 \_\_\_\_\_  
5 Reuben Yeroushalmi  
6 Attorneys for Plaintiff,  
7 CONSUMER ADVOCACY GROUP, INC.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28